

## **REMARKS**

**[0003]** Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-5, 8-10, 12, 13, 15-26, and 28-38 are presently pending. Claims 1, 12, 20, and 29 have been amended herein. Claims 6-7, 9, 11, 14-15, 17, 27-28, 32, and 35 have been withdrawn or cancelled.

### **Statement of Substance of Interview**

**[0004]** The Examiner graciously talked with me—the undersigned representative for the Applicant—on March 20, 2008. Applicant greatly appreciates the Examiner’s willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

**[0005]** During the interview, I discussed how the claims differed from the cited art, namely Bates I, Bates II, Angel, and Inamdar. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

**[0006]** I understood the Examiner to tentatively agree that the independent claims would be patentable over the cited art if amended as discussed during the interview. However, the Examiner indicated that he would need to review the cited art more carefully and do another search responsive to the amendments, and requested that the proposed amendments be presented in writing.

[0007] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

**Formal Request for an Interview**

[0008] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0009] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

## **Substantive Matters**

### **Claim Rejections under §101**

**[0010]** Claims 12-19 are rejected under 35 U.S.C. §101. In light of the amendments presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of §101 and that the §101 rejections should be withdrawn. The Applicant further asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

**[0011]** If the Examiner maintains the rejection of these claims, then the Applicant requests additional guidance as to what is necessary to overcome the rejection.

### **Claim Rejections under §103**

**[0012]** Claims 1-5 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,077,312 to Bates (hereafter Bates (I)) in view of U.S. Patent No. 6,493,834 to Bates (hereinafter Bates (II)).

**[0013]** Claims 10 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bates (I) in view of Bates (II) and in further view of U.S. Patent No. 6,314,558 to Angel.

**[0014]** Claims 12, 13, 15-26, 29-31, 33, 34 and 36-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bates (II) in view of Angel and Bates (I).

[0015] Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bates (I) in view of Bates (II) in further view of U.S. Patent Application Publication No. 2003/0149960 to Inamdar.

[0016] Claims 32 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bates (II), Angel, Bates (I) in further view of Inamdar.

[0017] In light of the amendments presented herein and the agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0018] **Independent claim 1**, as amended, recites one or more processor-accessible storage media comprising processor-executable instructions that, when executed, direct a device to perform actions comprising (in pertinent part):

if so, injecting a decision point in association with the instruction of the line of common intermediate language code, wherein:

the decision point enables a decision as to whether an exception is to be thrown with respect to the instruction;

the action of injecting a decision point comprises an action of injecting a bookmark entry, wherein the action of injecting a decision point further comprises an action of:

injecting a call to a decision runtime library, the decision runtime library comprising a program that is adapted to evaluate whether the exception is to be thrown with respect to the instruction by utilizing at least one throw exception decision (TED) logic factor, wherein the TED logic factor comprises one of the following:

random;

first path, wherein the first path TED logic factor throws an exception when encountering a particular decision point along a new execution path using an identifier of the particular decision point and one or more stack values;

**[0019]** The cited art fails to teach or suggest to one of ordinary skill in the art each element of independent claim 1. In rejecting dependent claim 9, the Examiner admitted that Bates (I) and Bates (II) failed to teach injecting a call to a decision runtime library and the decision runtime library comprising the program that does the evaluating. Instead, the Examiner pointed to Inamdar as teaching this element. Independent claim 1 has been amended to further clarify that the decision runtime library comprising a program that is adapted to evaluate whether the exception is to be thrown with respect to the instruction by utilizing at least one throw exception decision (TED) logic factor. Inamdar is silent to the use of TED logic factors.

**[0020]** In rejecting claim 17, the Examiner points to Bates (II) as disclosing the use of at least one throw exception decision logic factor. The Examiner contends that Bates (II) teaches the TED logic when first encountering a given decision point using an identifier of the given decision point. Independent claim 1 has been further clarified that the TED logic factor comprises either randomly or first path logic factors. Bates (II) is silent to these specific TED logic factors. As such Bates (II) does not suggest or teach the specific elements of independent claim 1.

**[0021]** As amended, independent claim 1 is not rendered obvious by the cited art. As such, independent claim 1 is now in proper form for allowance.

Dependent Claims 2-5 and 8-10

**[0022]** These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

**[0023] Independent claims 12** has been amended to recite in pertinent part a device comprising:

a decision runtime library that is adapted to evaluate the test couplet to selectively decide whether to throw an exception responsive to a bookmark entry and based on at least one throw exception decision (TED) logic factor selected from the group comprising:  
throwing an exception randomly; and

throwing an exception when encountering a particular decision point along each new execution path using an identifier of the particular decision point and one or more stack values;

**[0024]** As discussed with reference to independent claim 1, the cited art fails to teach or suggest a decision runtime library that is adapted to evaluate the test couplet to selectively decide whether to throw an exception responsive to a bookmark entry and based on at least one throw exception decision (TED) logic factor. The cited art specifically fails to teach or suggest the specific TED logic factors claimed in independent claim 12. Independent claim 12 is allowable for at least the reasons explained with reference to independent claim 1.

Dependent Claims 13, 15-16 and 18-19

**[0025]** These claims ultimately depend upon independent claim 12. As discussed above, claim 12 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

**[0026] Independent claim 20** has been amended to recite in pertinent part an arrangement for enabling reliability testing of managed code, the arrangement including one or more processor-accessible storage media device; wherein the arrangement comprises:

means for injecting a call to a decision runtime library, the decision runtime library comprising a program that is adapted to evaluate whether an exception is to be thrown with respect to the instruction by utilizing at least one throw exception decision (TED) logic factor, wherein the TED logic factor comprises one of the following:

random;

first path, wherein the first path TED logic factor throws an exception when encountering a particular decision point along a new execution path using an identifier of the particular decision point and one or more stack values

**[0027]** As discussed with reference to independent claim 1, the cited art fails to teach or suggest a means for injecting a call to a decision runtime library, the decision runtime library comprising a program that is adapted to evaluate whether an exception is to be thrown with respect to the instruction by utilizing at least one throw exception decision (TED) logic factor. The cited art also

specifically fails to teach or suggest the specific TED logic factors claimed in independent claim 20. Independent claim 20 is allowable for at least the reasons explained with reference to independent claim 1

*Dependent Claims 21-26*

**[0028]** These claims ultimately depend upon independent claim 20. As discussed above, claim 20 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

**[0029] Independent claim 29** has been amended in pertinent part to recite a method for instrumentation injection with regard to a common language runtime environment, the method comprising:

- injecting a bookmark entry, wherein the action of injecting a decision point further comprises an action of:
  - injecting a call to a decision runtime library, the decision runtime library comprising a program that is adapted to evaluate whether an exception is to be thrown with respect to the instruction by utilizing at least one throw exception decision (TED) logic factor, wherein the TED logic factor comprises one of the following:
    - random;
    - first path, wherein the first path TED logic factor throws an exception when encountering a particular decision point along a new execution path using an identifier of the particular decision point and one or more stack values;
    - the bookmark entry including an instruction type indicator that indicates an instruction type



for the instruction of the line of common intermediate language code.

**[0030]** As discussed with reference to independent claim 1, the cited art fails to teach or suggest a means for injecting a call to a decision runtime library, the decision runtime library comprising a program that is adapted to evaluate whether an exception is to be thrown with respect to the instruction by utilizing at least one throw exception decision (TED) logic factor. The cited art also specifically fails to teach or suggest the specific TED logic factors claimed in independent claim 29. Independent claim 29 is allowable for at least the reasons explained with reference to independent claim 1

*Dependent Claims 30-31, 33-34, and 36-38*

**[0031]** These claims ultimately depend upon independent claim 29. As discussed above, claim 29 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

## **Conclusion**

[0032] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 2008-03-21\_\_\_\_\_

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